

MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
NOVEMBER 10, 2005

The Lake County Board of Adjustment met Thursday, November 10, 2005 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Henry Wolsmann, Vice Chairman
Ruth Gray
Mary Link Bennett
Donald Schreiner, Chairman

Board Members Not Present:

Darren Eslinger
Carl Ludecke

Staff Present:

Terrie Diesbourg, Director, Customer Services Division
Anita Greiner, Senior Planner, Customer Services Division
Anna Ely, Public Hearing Coordinator, Customer Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Deputy County Attorney
Kevin McBride, Assistant County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed that Proof of Publication for each case is on file in the Customer Services Division and that this meeting has been noticed pursuant to the Sunshine Statute.

TABLE OF CONTENTS

<u>CASE NO.</u>	<u>OWNER/ APPLICANT</u>	<u>AGENDA NO.</u>
Consideration of Minutes	October 13, 2005	
Introduction	Carol Stricklin, Director, Department of Growth Management	
Withdrawals:		
BOA#124-05-2	Jack and Lana Fink/Steven J. Richey, P.A.	9
BOA#127-05-2	Blake N. and Mary Ann Lunde/Bruce G. Duncan	12
Postponements:		
BOA#105-05-3	Elizabeth Lee-Wilkinson/Sundeep Jay	1
BOA#122-05-3	Pete Benevides/Steven J. Richey, P.A.	7
BOA#123-05-3	Pete Benevides/Steven J. Richey, P.A.	8
BOA#128-05-1	Rudolph Reiher and Keith Whitmore/Ronald C. Davis	13
Discussion of Consent Agenda		
Consent Agenda Approval:		
BOA#121-05-4	Jordan W. Hypes/Robert Q. Williams	6
BOA#126-05-4	Daniel and Susan Brecklin	11
BOA#130-05-5	Catherine F. Romano/Katy Courtney	15
Regular Agenda:		
BOA#117-05-5	Wekiva Trails, LLC/Robert Krentel	2
BOA#120-05-5	Wekiva Trails, LLC/Robert Krentel	3
Consent Agenda Vote:		
BOA#121-05-4	Jordan W. Hypes/Robert Q. Williams	6
BOA#130-05-5	Catherine F. Romano/Katy Courtney	15
Regular Agenda:		
BOA#119-05-5	Ricardo Valeroso/Anthony Newton, Jr.	4
BOA#126-05-4	Daniel and Susan Brecklin	11
BOA#118-05-1	Ronald C. Davis, Debora S. Davis and Stacey Davis	5
BOA#125-05-5	Terrence Browning/SBA Network Services, Inc.	10
BOA#134-05-2	Richard H. Langley	19
BOA#126-05-4	Daniel and Susan Brecklin	11
BOA#129-05-5	Windell Wheeler/Barbara Burdick	14
BOA#131-05-5	Alan and Tammy Gifford/Leslie Campione, P.A.	16
BOA#132-05-5	Robert A. Hart/Joe Hart	17
BOA#133-05-5	Victor and Maria Rivas	18

Minutes

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to approve the October 13, 2005 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Chairman Schreiner stated that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter.

Introduction

Anita Greiner, Senior Planner, introduced Lake County's new Director for the Department of Growth Management, Carol Stricklin.

Consent Agenda and Exhibits

Chairman Schreiner explained the procedure for hearing cases on the consent agenda. He noted that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case. These exhibits will be on file in the Customer Services Division.

Postponements:

Anita Greiner, Senior Planner, stated that indefinite postponements have been requested for BOA#105-05-3 and BOA#128-05-1.

CASE NO.: BOA#124-05-2

AGENDA NO.: 9

OWNERS: Jack and Lana Fink
APPLICANT: Steven J. Richey, P.A.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to accept the withdrawal of BOA#124-05-2.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#127-05-2

AGENDA NO.; 12

OWNERS: Blake N. and Mary Ann Lunde
APPLICANT: Bruce G. Duncan

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to accept the withdrawal of BOA#127-05-2.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#105-05-3

AGENDA NO.: 1

OWNER: Elizabeth Lee-Wilkinson
APPLICANT: Sundeep Jay

Chairman Schreiner stated that an indefinite postponement has been requested for this case.

There was no opposition in the audience to an indefinite postponement.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to postpone BOA#105-05-3 indefinitely.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#122-05-3

AGENDA NO.: 7

OWNER: Pete Benevides
APPLICANT: Steven J. Richey, P.A.

Chairman Schreiner stated that a postponement until the January Board of Adjustment public hearing has been requested for this case.

There was no opposition in the audience to this postponement.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to postpone BOA#122-05-3 until the January 12, 2006 Board of Adjustment Public Hearing.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#123-05-3

AGENDA NO.: 8

OWNER: Pete Benevides
APPLICANT: Steven J. Richey, P.A.

Chairman Schreiner stated that a postponement until the December Board of Adjustment public hearing has been requested for this case.

There was no opposition in the audience to this postponement request.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to postpone BOA#123-05-3 until the December 8, 2005 Board of Adjustment Public Hearing.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#128-05-1

AGENDA NO.: 13

OWNERS: Rudolph Reiher and Keith Whitmore
APPLICANT; Ronald C. Davis

There was no opposition in the audience to this postponement request.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to postpone BOA#128-05-1 indefinitely.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Discussion of Consent Agenda

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#121-05-4, BOA#126-05-4, and BOA#130-05-5. A member of the audience asked that BOA#134-05-2 be removed from the consent agenda and placed on the regular agenda.

CASE NO.: BOA#117-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 2

CASE NO.: BOA#120-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 3

Anita Greiner, Senior Planner, said Ben Champion would be the applicant for Wekiva Trails. Mr. Champion wants to request a withdrawal of BOA#117-05-5.

Ben Champion stated that he is a managing member of Wekiva Trails. He requested withdrawal of BOA#117-05-5 regarding the minor lot split. They have made another arrangement with Public Works so a variance and lot split are no longer needed.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to accept the withdrawal of BOA#117-05-5.

There was no one in the audience who wished to speak on this case.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

Anita Greiner, Senior Planner, presented BOA#120-05-5 and the staff recommendation of denial. She showed the aerial from the staff report on the monitor and submitted a FEMA map as County Exhibit A, a flood zone map as County Exhibit B, a flyer for Wandering Ponds showing the proposed lots as County Exhibit C, and a wetlands map as County Exhibit D. The parcel is 60 acres, and the owner is proposing to create an 11-lot subdivision. The proposed road that will serve as access for the 11 lots will be off SR 44. The owner is proposing to construct the road below base flood elevation. The owner has begun the process of platting the parcel. Ms. Greiner stated that staff will require that the road be at least six inches above base flood elevation. She explained that originally this was to be a ten-lot subdivision. With the withdrawal of BOA#117-05-5, that extra lot will now be part of the 11-lot subdivision.

When Donald Schreiner confirmed that the larger area of the subdivision is in a floodplain, Ms. Greiner said that is not the reason for the variance. The variance request is to allow the road to be constructed at a lower level than allowed by Code.

Mary Link Bennett asked the frontage on SR 44 for the eleventh lot. Ms. Greiner said it will be part of the subdivision. With the addition of another lot, a new preliminary plat must be submitted.

Ross Pluta, Engineer III, stated that the FEMA map in this area is wrong. The elevation shown is too high. If a map revision was done, the elevation could be lowered and the problem solved. For some reason, the applicant does not want to do this. Although the roads may never be flooded, they would still be in the floodplain according to a FEMA document. The people who buy these houses will need to pay for flood insurance, and it could be expensive. Therefore, Public Works is opposing this variance because a FEMA map revision would be a better alternative to the variance. Regarding the map revision, Mr. Pluta informed Ms. Bennett that the burden of proof lies with the applicant. He explained the procedure for requesting a map revision.

Ms. Greiner submitted the Wandering Ponds preliminary plat as County Exhibit E. She said staff is recommending that the applicant go through the process of obtaining a letter of map revision through

FEMA to

CASE NO.: BOA#117-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 2

CASE NO.: BOA#120-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 3**PAGE NO.:** 2

FEMA to correct the situation.

Mr. Champion said it is their intent to comply in everyway with the rules. However, the rule in this particular instance does not make any sense. That is why they are asking for a variance. The building department controls the rules to make sure that houses do not get flooded. The rule is that all houses constructed on a property must have the floor of the house at least 18 inches above the base flood elevation or 71-1/2 feet above sea level in this instance. That is easily done by grading lots to add or move fill dirt from on the site. In addition, a seller in the State of Florida is obligated to disclose all factors that could have an effect on the value of property before selling. Therefore, they will have the burden to make all potential buyers aware of the flood elevation in this area and that a majority of a particular lot other than the area around the house will be within the flood elevation. He agreed with Mr. Pluta that the flood elevation in this area appears to be wrong. The base flood elevation of this property is set at just under 70 feet. SR 44 has been constructed at 65 feet above sea level. The property to the south, Greenbrier, has a base elevation of 65 feet. He acknowledged that they could get the base flood elevation corrected. However, this is a very small development, and they are a very small development company. This would entail gathering a mass amount of data to submit to FEMA. That procedure could cost them from \$50,000 to \$100,000 and take six months to a year for a response to this request. It would be less expensive and more certain for them to build the road a little higher. If this area did flood at 70 feet, SR 44 would be under five feet of water. Their roads would be above the flood elevation, but emergency vehicles would not be able to get near the property because SR 44 would be under water. Therefore, he did not understand the purpose in a requirement to build the road higher. If the variance is not granted and the road was built in compliance with Lake County's Public Works' rules on road construction, much of the road would be under the flood zone because coming off of SR 44, their road is not allowed to go up in elevation from SR 44 until it is level with SR 44 into the subdivision for some distance before grading up slowly. They are proposing to construct the road at 67 feet above base flood elevation.

Chuck Hiott, engineer with Farner Barley, was present; but the Board had no questions for him.

Harlow Middleton, attorney, was present to represent several companies, which are owners of property adjacent or very near to the subject property. His clients agree with the staff's comments regarding this request. They feel it is a bad idea to build a road that is not in compliance with the County, especially in a flood situation. He questioned whether the County has the authority to grant a variance to a FEMA map. His clients do not feel a hardship exists. What happens on this property will impact his clients' options in the future. He requested denial of this request.

Ms. Greiner stated that Lake County participates in the National Flood Insurance Program, which allows the citizens of Lake County relief from paying higher flood insurance rates. In doing so, the County in return has the responsibility to protect the flood areas as well as other responsibilities. Anytime a variance is granted to anything that has to do with flood, FEMA takes that under consideration, and it would lower the County's grade level.

Mr. Champion said it would take a lot of things to happen to make the flood insurance category with FEMA change. This is not a variance to a FEMA flood map. It is a variance to a Public Works' rule. The houses in this subdivision will be a minimum of 2400 square feet with a house and lot value of about \$500,000 each. This property will not lower the property values of others in the area. Since it has been agreed that the FEMA flood elevation is wrong, this request will not put anyone in danger. Even if the flood elevation is correct, emergency vehicles would have to go through five feet of water on SR 44 in

CASE NO.: BOA#117-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 2

CASE NO.: BOA#120-05-5
OWNER: Wekiva Trails, LLC
APPLICANT: Robert Krentel

AGENDA NO.: 3

PAGE NO.: 3

order to get to this property.

Ms. Greiner said this is a variance to an appendix to the Land Development Regulations (LDRs), not a Public Works' rule. It is the applicant's burden to prove the FEMA maps are wrong. County staff has been told the map is wrong, but they do not have proof and will not have that proof until a map of revision is done. That is what staff is recommending.

With the property in question having the potential of eleven \$500,000 homes, Ms. Bennett said the cost of the process for a map revision should not be a big problem. Ms. Greiner said she had talked to Donna Bailey from Public Works who said the process has normally been taking about six months.

Mr. Champion said they would have to do a study of a 500-acre area. This parcel is only 60 acres. He questioned why they should have to bear the cost of studying the entire flood basin to fix FEMA's error. It is their intention to ask for a letter of map revision once they raise each building pad to above the incorrect flood elevation. This will certify that that specific portion of the property is no longer in the flood zone, and that will exempt property owners from high levels of flood insurance and possibly all flood insurance. Public Works can ask them to go to FEMA to try to get this problem fixed, but they do not have the authority to require them to do this.

Ruth Gray asked if Mr. Champion was speculating when he made the statement that emergency vehicles would have to go through five feet of water to get to this property. Mr. Pluta said a letter of map revision is required per Chapter 9.07 of the Lake County's LDRs. He reiterated that the elevation should be lowered or the road constructed higher. Rather than putting the road five feet above flood elevation, Mr. Pluta said Public Works would agree to the road being at flood elevation.

MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to deny BOA#120-05-5.

Mr. Schreiner stated that at this point, SR 44 drains to the south. He lives in this area but has not visited this particular piece of property. However, outside of this piece of this property, the water does drain.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner,

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.:	BOA#121-05-4	AGENDA NO.:	6
OWNER:	Jordan W. Hypes		
APPLICANT:	Robert Q. Williams		

CASE NO.:	BOA#126-05-4	AGENDA NO.:	11
OWNERS/APPLICANTS:	Daniel and Susan Brecklin		

CASE NO.:	BOA#130-05-5	AGENDA NO.:	15
OWNER:	Catherine F. Romano		
APPLICANT:	Katy Courtney		

Chairman Schreiner asked for a motion to approve the consent agenda.

MOTION by Mary Link Bennett to take the following actions on the above consent agenda:

BOA#121-05-4	Approval
BOA#126-05-4	Approval with conditions
BOA#130-05-5	Approval with conditions

It was noted that someone in the audience wished to speak about BOA#126-05-4. **With permission of the Board, Chairman Schreiner removed BOA#126-05-5 from the consent agenda and placed it on the regular agenda.**

Ms. Bennett withdrew her motion.

MOTION by Mary Link Bennett, SECONDED by Ruth Gray to take the following actions on the above consent agenda:

BOA#121-05-4	Approval
BOA#130-05-5	Approval with conditions

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#119-05-5

AGENDA NO.: 4

OWNER: Ricardo Valeroso
APPLICANT: Anthony Newton, Jr.

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial and pictures from the staff report on the monitor. She submitted a flood zone map as County Exhibit A and a plat of survey as County Exhibit B.

Anthony Newton was present to represent the case. Referring to County Exhibit B, he noted that the proposed house has a side-entry garage with a driveway. When the staff drew a pencil drawing on the plot plan to show how the house would fit in another area, he pointed out that there was not enough room for a driveway or turnaround pad. Staff had suggested that perhaps his neighbor would give him access or sell him land to build a driveway. Mr. Newton said both those options are totally unacceptable. Based on setback requirements for Royal Trails, the house must be at least 50 feet from the rear easement and 24 feet from the side boundary. If the footprint is moved back, there would be no backyard property if someone wanted to build a swimming pool in the future. He spoke of the vegetation on the property, noting that he wants to keep his property as natural looking as possible. He asked the Board to grant him this variance. He felt there is a hardship because he has been forced to extend the lease on his property while undergoing the various processes, and the rent is extremely expensive. The cost of the land in this area is escalating tremendously. At the request of Ruth Gray, Mr. Newton pointed out the trees on his property. He added that all the homes, with the exception of those on larger pieces of property, have 50 to 100-foot setbacks. To vary that would change the aesthetics of the neighborhood.

In response to Mary Link Bennett, Mr. Newton said the oak trees are a mixture in the backyard. She asked if there was a way to alter the configuration of the house or rotate the house to meet the requirement. Donald Schreiner asked if Mr. Newton could flip-flop the house and put the driveway on the other side. Mr. Newton said there is a nice pond off to the west side. If the house were flip-flopped, they would not be able to enjoy the aesthetics of the pond as easily.

Ms. Greiner stated that when she placed the blue square on the plat of survey, she did not mean to indicate that the house had to be in a certain area. She wanted to show that there was plenty of room for this house to be placed on the property outside of the flood zone.

Ms. Bennett said she is familiar with this area, and she did not think there were any large oak trees. Scrub oaks are not that desirable.

Henry Wolsmann made a motion for denial of BOA#119-05-5. When it was noted that someone in the audience wished to speak, Mr. Wolsmann withdrew his motion.

Julie Tonks, Porsig Realty, was present to represent the seller. She said she walked this property before placing it on the market. There are saw palmettos in the front of the property and higher trees in the back. There are oak trees in the rear.

MOTION by Henry Wolsmann, SECONDED by Ruth Gray to deny the variance request in BOA#119-05-5.

Ms. Gray asked if it would be possible to give Mr. Newton an opportunity to prove that his property has live oak trees. Ms. Bennett suggested a continuance so Mr. Newton could meet with his builder to come up with a different configuration for the house. Even if this case was continued so Mr. Newton could find a different house, Ms. Greiner said he still would be required to build it out of the flood zone. Therefore, she did not feel there is a need for a continuance.

CASE NO.: BOA#119-05-5

AGENDA NO.: 4

OWNER: Ricardo Valeroso
APPLICANT: Anthony Newton, Jr.

PAGE NO.: 2

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#126-05-4

AGENDA NO.: 11

OWNERS/APPLICANTS: Daniel and Susan Brecklin

Kevin McBride confirmed that Daniel and Susan Brecklin were still in the audience. He did not feel it would be fair to pursue the case if they had left.

CASE NO.: BOA#118-05-1 AGENDA NO.: 5

**OWNERS/APPLICANTS: Ronald C. Davis, Debora S. Davis
and Stacey Davis**

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor.

Melanie Marsh, Deputy County Attorney, came into the meeting.

Ron Davis was present to represent the case. Rather than buying the lots, he actually traded lots with a gentleman he is building a house for. The dates in the staff report are correct, but he thought he could split the lots. Almost everyone in the subdivision has built on one lot. Ms. Greiner acknowledged that this subdivision is almost built out, but the houses were built prior to the aggregation requirement. In response to Henry Wolsmann, Ms. Greiner said the houses in this subdivision do have wells and septic tanks. The house north and south of the subject property are built on two lots. Mr. Davis said the houses across the street are built on the same size lot he is requesting. Ruth Gray pointed out that 65 percent of the lots in this subdivision are single lots.

There was no one in the audience who wished to speak.

MOTION by Ruth Gray, SECONDED by Mary Link Bennett to deny the variance request in BOA#118-05-1 based on the lack of any hardship.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#125-05-5

AGENDA NO.: 10

OWNER: Terrence Browning
APPLICANT: SBA Network Services, Inc.

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a map (County Exhibit A) showing the location of the proposed tower on the parent parcel as well as a dot showing where the tower could be placed and meet the Land Development Regulations (LDRs). She noted the letter of opposition that had been received. She said those in opposition own the properties highlighted in pink on a map she submitted as County Exhibit B. The parcel highlighted in yellow on that exhibit is the subject parcel. When Henry Wolsmann asked about the parcels to the west, Ms. Greiner said they were platted as a subdivision at one time, but parts of it have been vacated.

Terrence Browning said he lives on this property. He wants to put the tower on the north end of the property because that is where the power and telephone lines are located. The property is zoned Agriculture, and he has cows on it. Trees will almost hide the tower, and the residents of the surrounding properties will not be able to see the tower very easily. When Ruth Gray asked about the cows wandering around the tower, Mr. Browning said towers normally have a chain link fence around the area that is being leased. Generators will be used as back up. The properties of those in opposition are mostly unoccupied.

Ms. Greiner said the applicant has the opportunity to locate a different parcel in the area that would meet all the requirements.

Joe Bradner said he has 22 acres in this area. He moved to the country to look at the country, not a 150-foot tower. Nobody knows how much radiation that these towers produce. The road that they use is not County maintained. There are children in the area. He did not see a need to have a tower in this area. The company approached him about putting this tower on his property, but he declined. In response to Ms. Gray, Mr. Bradner said he lives north of the subject property, about 900 feet away. It is not shown on the map submitted as County Exhibit B.

Melanie Marsh, Deputy County Attorney, stated that the Federal Telecommunications Act prohibits this Board from considering the effects of radio frequency emissions. Chairman Schreiner added that this Board cannot prohibit a tower from being placed on this property if it is placed in the proper location and meets all the other requirements.

Richard Murphy, adjacent property owner, said he would be able to look out his bedroom window and see Mr. Browning's house. If the tower is placed where it is proposed, it will lower his property's value. He did not see a need for this cell tower. He said he has a cell phone and gets perfect reception. He felt this tower would increase traffic. The road is in very poor condition at this time. The residents maintain it. He pointed out on County Exhibit B where his property is located. Mr. Murphy explained that when the area where he lives was originally platted, there were trailer lots. The only remaining trailer is Mr. Browning's, other than the parcels that are further to the east. There are numerous homes in the area. He lives in a brick home.

John Jobo said he lives directly across from the subject property. He pointed out the location of his property on County Exhibit B. He questioned the reason for this variance since the tower would meet the requirements if it was placed in the middle of the property. He is opposed to the tower as he has an expensive home. He wants to keep his quality of life the same as it has been.

Ms. Gray was informed by Ms. Greiner that if the tower meets all the other requirements, the applicant could place the tower in the middle. If the tower does not meet all the requirements in the middle, then the applicant would have to come back before this Board for a variance requests if he wanted to center it as well. This variance request is to put the tower in the northeast corner.

Harlow Middleton noted the letter he had written on behalf of his clients. The properties highlighted in

CASE NO.: BOA#125-05-5**AGENDA NO.: 10****OWNER: Terrence Browning**
APPLICANT: SBA Network Services, Inc.**PAGE NO.: 2**

pink on County Exhibit B are the properties owned by the companies he represents. Although there is only one house on the properties at this time, these properties will be developed in the future. He felt there is a real detriment to locating this tower anywhere on this property. He called an appraiser to learn if there is any real effect on residential properties when a cell is located in the vicinity. The answer was yes. Mr. Browning has been a great neighbor. However, he did not feel a hardship has been shown.

Mr. Browning said the location for the cell tower that he is proposing would be the least offensive to everyone. He reiterated that it will not be able to be seen from anyone's house. If he places the tower in the center of the property, it will be directly opposite Mr. Jobo's property and visible to the southern neighbor.

Mr. Murphy disagreed with Mr. Browning's statements. This tower will be 150 feet high. There are no trees that high so there is nothing to hide this tower from being seen. With his home adjacent to this property, he will be able to see the tower.

MOTION by Henry Wolsmann, SECONDED by Bob Fox to deny the variance request in BOA#125-05-5.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner**AGAINST: None****NOT PRESENT: Eslinger, Ludecke****MOTION CARRIED: 5-0**

CASE NO.: BOA#134-05-2 **AGENDA NO.:** 19

OWNER/APPLICANT: Richard H. Langley

Anita Greiner, Senior Planner, said the person who asked that this case be removed from the consent agenda has been satisfied and left. The Board had no problem with it being on the consent agenda. She asked if the Board would like to address the case at this time.

Chairman Schreiner said this case will be placed back on the consent agenda.

MOTION by Ruth Gray, SECONDED by Mary Link Bennett to remove BOA#134-05-2 from the regular agenda and place it back on the consent agenda and to approve the variance request with the condition that the owner places a culvert under the proposed paved easement at the location of the drainage easement to allow free and clear passage/flow of water. The purpose of the culvert would be to insure that the paved easement does not interfere with the use of the initial drainage easement.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.:

BOA#126-05-4

AGENDA NO.:

11

OWNERS/APPLICANTS:

Daniel and Susan Brecklin

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial from the staff report on the monitor and submitted a plat as County Exhibit A.

Donna LaBruno, who lives on Eldorado Lake Drive, said her property backs up to the rear of the subject property. The easement is between the two properties and then runs down the side of her property. She was concerned about increased traffic.

Ms. Greiner said this is not a public easement; it is a private easement for use by surrounding property owners only. Mary Link Bennett asked if there were any restrictions about it being paved. Ms. Greiner said the easement agreement does not address paving or not paving the easement. It is not a County requirement to pave the easement.

Ms. LaBruno said she does not use the easement. Mr. Brecklin closed off the easement where it runs down the side of his property. She was also concerned about whether this could decrease the value of her property.

Dan Brecklin, owner of the property, said he blocked off the easement on his property with a fence. Others were using that as an easement because Ms. LaBruno's fence is stretched across the 30-foot easement. Her fence has been there for years. He also owns Lot 3 and vacated the easement between Lots 2 and 3 because it was being used to dump debris. The easement he wants to use and improve became an easement in 2001 for use by the owners of the parcels on Eldorado Lake Drive. Lot 10 is owned by Bob David. He has been in contact with Mr. David. Lot 10 is a vacant parcel at this time. Mr. David said he would like to be able to use the easement for his parcel also so there would be the residents of Mr. David's parcel and the residents of these two parcels being split from Lot 2 using this easement. He was willing to incur the cost of clearing the easement and claying it. He has spoken to Sumter Electric because there was a pole placed by Eldorado Lake Drive in 1965. Sumter Electric said they would move the pole to the side so the easement could be used. If there was a cost, he told Sumter Electric that he would pay that.

MOTION by Ruth Gray, SECONDED by Bob Fox to approve the variance request in BOA#126-05-4 with the following conditions:

The two parcels being created cannot be split further utilizing the minor lot split or family density exception processes.

The easement must be cleared and constructed in such a manner as to provide safe passage of emergency vehicles prior to the issuance of a zoning clearance (on the west five-acre parcel) for a single-family dwelling unit.

Record deed restrictions that require the property owners to maintain the private easement. Such restrictions must be recorded prior to the recordation of the approved lot split.

FOR:

Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST:

None

NOT PRESENT:

Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#129-05-5

AGENDA NO.: 14

OWNER: Windell Wheeler
APPLICANT: Barbara Burdick

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor.

Windell Wheeler, owner of the property, said he lives in Ohio. Barbara Burdick submitted this application on his behalf. She wants to buy the property to build one single house. He noted that the aerial on the screen shows 14 lots. In actuality there are only two lots. Those lots were aggregated in 1994 into two lots. The applicant wants to set her house on the line in the middle of the property so her house would be buffered. Since he aggregated his lots, there have been other houses built on smaller lots than is being requested at this meeting. He had the records available for the aggregation done on June 20, 1994.

In response to Ruth Gray, Ms. Greiner explained that the owner could have one site from Lots 4 through 31 and Lot 41. However, what the owner and applicant want is to have a separate site for Lots 14 through 31. She submitted a plan (County Exhibit A) showing the lots that must be aggregated. She also submitted a boundary survey as County Exhibit B and showed the pictures from the staff report.

Mr. Schreiner commented that even if the required aggregation was done, the road problem would still exist.

Mr. Wheeler said the lots Ms. Greiner spoke of were not available for purchase when he bought his house in 1993. When he purchased his house, he had spent time researching records. When he aggregated the 14 lots into two lots, he asked if they were buildable lots. He was assured that they were buildable lots. After that time, he continued to check to ensure that the lots were buildable. Denial of this request would cause a severe financial burden on him because lots are not available to add to his lots. He asked if the two lots standing by themselves are buildable lots.

Ms. Greiner said a lot of record was done in 1990. The rules changed in 1993 so he would have to meet today's rules. She reiterated that Lots 4 through 31 and Lot 41 would all have to be aggregated together to be one buildable site. Mr. Wheeler said Lot 41 was not available at that time. When he asked how another house could be built without aggregating lots, Ms. Greiner said it would depend on the ownership pattern in 1993. She acknowledged that there could be inconsistent ownership patterns in the area. He requested approval of this request as it would not be detrimental to the other lots or homes, but it would be a financial hardship to him.

Mr. Schreiner said the piece of land is well suited for the purpose intended, but this Board cannot go against the Comprehensive Plan.

MOTION by Henry Wolsmann, SECONDED by Ruth Gray to deny the variance request in BOA#129-05-5.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#131-05-5

AGENDA NO.: 16

OWNERS: Alan and Tammy Gifford
APPLICANT: Leslie Campione, P.A.

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor.

Leslie Campione was present to represent the case. She noted that this request is consistent with the Comprehensive Plan. Grow Road is a hard-surface dirt road in good condition. Emergency vehicles would have no problem with the road. If the owners platted the property, they would have to pave the road to the pavement. The cost of that would be exorbitant. The owners' intent is to divide the parcel into two tracts and sell the house they live in currently. They then want to build another house on the new tract. They will build it in such a way that it has a mother-in-law suite in order to take care of Mr. Gifford's father, who has advanced Alzheimer's disease. In addition, taking care of ten acres has become a burden. The variance granted in August of this year for the parcel to the north was similar to this variance request, perhaps even further from the pavement than this variance request. Granting this request would not add a lot of traffic to the road as it is only one more house. Also, this request would be consistent with the development pattern of five-acre tracts.

Alan Gifford stated that the purpose of this request is to allow him to be able to take care of his parents.

MOTION by Ruth Gray, SECONDED by Mary Link Bennett to approve the variance request in BOA#131-05-5 with the condition that no further subdivision of the parcels may take place, either through the minor lot split or family density exception process based on the hardship stated.

FOR: Fox, Wolsmann, Gray, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 5-0

CASE NO.: BOA#132-05-5

AGENDA NO.: 17

OWNER: Robert A. Hart
APPLICANT: Joe Hart

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a flood zone map as County Exhibit A, a wetlands map as County Exhibit B, and a plat of boundary survey as County Exhibit C.

Donald Schreiner confirmed that Hart Ranch Road is paved.

Joe Hart was present to represent the case. He said his brother, Robert Hart, has owned this property for 20 years. When he purchased the property, he planted most of the property in citrus groves. However, the citrus groves have not been very profitable. His brother's son was injured in a tornado in March of 1993 and requires constant care. His wife passed away in 2002 from cancer. Robert currently has cancer. He has no health insurance and must sell off some of his property. Creating a subdivision would require a lot of time and money. Time is of the essence in order to pay his medical bills.

Ruth Gray asked Joe Hart if he could divide the property in two pieces that would comply and then sell one of the parcels to pay the medical bills. Joe Hart said Robert's house is on one of the five-acre parcels. This request would create three parcels that he could sell.

In response to Mr. Schreiner, Ms. Greiner said that even if a variance is granted today, the land could be split further through a minor lot split with another variance. A family split could be done on each of the newly created parcels without a variance. There are no flood areas or wetlands on the five-acre parcels.

Joe Hart added that if this variance is approved, they want to put deed restrictions in place that would prohibit mobile homes.

Ruth Gray made a motion for denial of the variance request in BOA#132-05-5, but it died for lack of a second.

MOTION by Henry Wolsmann, SECONDED by Bob Fox to approve the variance request in BOA#132-05-5, as requested.

Mary Link Bennett felt that some restrictions should be placed on this variance request if it is approved.

AMENDMENT by Mary Link Bennett, SECONDED by Bob Fox to include the condition that no further lots may be created through the minor lot split or family density exception process on the four five-acre parcels.

FOR: Fox, Wolsmann, Bennett, Schreiner

AGAINST: Gray

NOT PRESENT: Eslinger, Ludecke

MOTION CARRIED: 4-1

CASE NO.:**BOA#133-05-5****AGENDA NO.:****18****OWNERS/APPLICANTS:****Victor and Maria Rivas**

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial and pictures from the staff report on the monitor. She noted the letter of opposition that had been received. She submitted a site plan as County Exhibit A. She also submitted a map (County Exhibit B) showing the property owned by the writer of the letter of opposition highlighted in pink and the subject property highlighted in yellow. In response to Henry Wolsmann, Ms. Greiner said all the parcels with a red cross shown on County Exhibit B have houses on them.

Mary Link Bennett was informed by Ms. Greiner that the accessory dwelling unit is an allowed use; the size of the mobile home is the reason for the variance request.

Victor and Maria Rivas were present to represent the case. Janie Barron from the Lake County Customer Services Division was present to act as translator. On behalf of Mr. and Mrs. Rivas, Ms. Barron said they need the accessory dwelling unit because they have a large family and would like their parents to be in the mobile home by themselves.

Myra Manis, adjacent property owner, said the subject property is zoned Agriculture, which is consistent with what they are doing on the property. However, she questioned when the rules changed to allow more than one dwelling unit on five acres.

Ms. Greiner replied that accessory dwelling requirements are part of Chapter 10. Those rules became effective in about 1997. Ruth Gray was informed by Ms. Manis that she lives east of the subject property. She has three five-acre parcels.

If this is denied, Ms. Greiner said the owners could do a family density exception and leave the mobile home on the property. However, they would like to keep it as a five-acre parcel.

MOTION by Bob Fox, SECONDED by Mary Link Bennett to approve the variance request in BOA#133-05-5.

FOR:**Fox, Wolsmann, Gray, Bennett, Schreiner****AGAINST:****None****NOT PRESENT:****Eslinger, Ludecke****MOTION CARRIED: 5-0**

Adjournment

There being no further business, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman